

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**

**ALVIN M. LAMBRIGHT,**

Plaintiff,

v.

**AUTUMN LAMBRIGHT; CITY OF  
SALEM/SALEM POLICE  
DEPARTMENT; RICHARD BEAL; and  
JARED NOACK,**

Defendants.

Case No. 3:17-cv-290-YY

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATION**

**Michael H. Simon, District Judge.**

On May 17, 2017, United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case. ECF 32. Judge You recommended that Defendant City of Salem's Motion for Summary Judgment (ECF 8) be granted and that Plaintiff's Fourth, Fifth, and Sixth Claims asserted against Defendants City of Salem/Salem Police Department, Richard Beal, and Jared Noack be dismissed. Plaintiff timely objected to portions of Judge You's Findings and Recommendation, and the moving Defendants timely responded.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

The Court has reviewed *de novo* those portions of Judge You's Findings and Recommendation to which Plaintiff objects. The Court agrees with Judge You's reasoning. For those portions of Judge You's Findings and Recommendation to which neither party has objected, the Court reviewed those portions for clear error, and no such error is apparent. The Court ADOPTS Judge You's Findings and Recommendation (ECF 32). Defendant City of Salem's Motion for Summary Judgment (ECF 8) is GRANTED. Claims Four, Five, and Six of Plaintiff's Complaint are DISMISSED.

**IT IS SO ORDERED.**

DATED this 19th day of June, 2017.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge